

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSHUA ISSIAH SHULER,

Plaintiff,

v.

LISA MANSFIELD, et al.,

Defendants.

Case No. 3:21-cv-05713-MJP-TLF

ORDER DISMISSING PLAINTIFF'S
COMPLAINT

This matter is before the Court on the Report and Recommendation of Judge Theresa L. Fricke, United States Magistrate Judge, (Dkt. No. 11), and Plaintiff's objections, (Dkt. No. 12). Having reviewed the Report and Recommendation, the remaining record, and Plaintiff's objections:

- (1) The Court adopts the Report and Recommendation;
- (2) Plaintiff's complaint, and therefore this action, is DISMISSED without prejudice for failure to state a claim upon which relief can be granted; this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g); and
- (3) Plaintiff's motion for leave to proceed in forma pauperis (Dkt. 3) is DENIED as moot.

Discussion

As an initial matter, Plaintiff's objections appear to be late. They were due to be served and filed on February 9, 2022. Local Civ. R. 72(b). Plaintiff's objections were not filed until February 14, 2022. (Dkt. No. 12.) They were postmarked on February 10, 2022. (See id. at 3.) Nevertheless, taking note of Plaintiff's sworn statement that he served his objections on February

1 7, 2022, and that the objections were filed before the Court had ruled on the Report and
2 Recommendation, the Court exercises its discretion and will consider them. Because Plaintiff
3 fails to show any legal error in Judge Fricke's Report and Recommendation, the Court DENIES
4 the objections.

5 The clerk is directed to send a copy of this Order to Plaintiff.

6 Dated this 22nd day of February, 2022.

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9 Marsha J. Pechman
United States Senior District Judge